

REMARKS

This responds to the Final Office Action dated December 27, 2010.

Claims 1, 6-10, 17, 22-26, 31-34 are amended, and claims 35-37 are newly presented; as a result, claims 1-37 are now pending in this application.

New Claims

Claims 35-37 are new. Examples of support for the new claims are found in the specification at Paragraphs 0054 and 0066. Applicants believe that no new matter has been introduced in the added claims. Additionally, Applicants respectfully submit that the new claims are patentably distinct over the currently cited prior art references for at least the reasons discussed below with respect to the independent base claims. Accordingly, Applicants respectfully request that the Examiner consider and allow the newly added claims.

Rejection of Claims Under § 103

Claims 1-3, 6-7, 10-19, 22-23, 26-28, and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over Benbrahim et al. (US 2005/0059453) in view of Nelson et al. (US 2004/0053682). Claims 4, 5, 8, 20, 21, 24, 29, 30, and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Benbrahim et al. and Nelson et al. in view of Perrie et al. (US 2002/0036380). As outlined below, Applicant respectfully submits that a number of features and limitations of the presently amended claims are not taught, suggested, or otherwise rendered obvious by the combination of cited prior art. Therefore, a prima facie case of obviousness is not established for the claims under § 103(a).

The legal conclusion that a claim is obvious under § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966). The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a prima facie case of obviousness. In *re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988). "All

words in a claim must be considered in judging the patentability of that claim against the prior art.” In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970); M.P.E.P. § 2143.03. To support an obviousness rejection under 35 U.S.C. 103, the Examiner must clearly articulate the reason(s) why the claimed invention would have been obvious. M.P.E.P. § 2142. To facilitate review, this analysis should be made explicit. See KSR Int'l v. Teleflex Inc., et al., 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ 2d 1385(2007). Specifically, obviousness rejections “cannot be sustained with mere conclusory statements; instead, there must be some articulated reasons with some rational underpinning to support the legal conclusion of obviousness.” In re Kahn, 441 F.3d 977, 988, 78 USPQ 2d 1329, 1336 (Fed. Cir. 2006).

As a direct contrast to the Rejection’s conclusion of obviousness, Applicant submits that significant differences exist between the cited prior art and the claims at issue. Further, the Rejection appears to misstate the scope and content of teachings related to payouts in the cited prior art. The differences between the recited claims and the teachings of the cited prior art are most evident when considering the entirety of the following steps as recited by claim 1:

receiving during the runtime of a wagering game a game rules script, the game rules script comprising text specifying a set of displayable game elements used in the wagering game, the text further defining one or more rules to determine a set of one or more winning outcomes in terms of one or more of the set of displayable game elements;

generating a game outcome, the game outcome including selected elements of the set of displayable game elements; and

determining if the game outcome matches at least one winning outcome in the set of winning outcomes in accordance with evaluation of the selected elements against the one or more rules provided by the game rules data structure.

(Amendments underlined).

- a) The Cited Prior Art Fails to Teach or Suggest the Elements of Generating a Game Outcome and Determining if the Game Outcome Matches at least One Winning Outcome as Claimed

First, as admitted on Page 4 of the present Rejection, Benbrahim fails to disclose determining if the game outcome matches at least one winning outcome in the set of winning outcomes in accordance with the game rules data structure. It therefore follows that Benbrahim also fails to disclose any type of “evaluation of the selected elements against the one or more rules provided by the game rules data structure.”

Nelson also fails to teach or otherwise suggest this claimed feature. As disclosed throughout Nelson, its techniques are directed to “representing payout data and storing payout data” to enable payout data to be “easily replaced or updated”. Paragraph 0014. This payout data, as defined in Paragraph 0004, is simply “mapping of a set of outcomes in a particular game to a set of payout multipliers.” Payout data, as used in Nelson, therefore is used only to determine the amount of winnings that are paid after some winning outcome has already been determined – payout data in Nelson does not provide “rules to **determine** a set of one or more winning outcomes” because these winning outcomes are already predetermined in Nelson’s disclosure.

Nelson simply discloses “mapping the outcome to a payout,” (Paragraph 0019) and describing this gaming machine payout is the only action that its payout data “script” performs. The techniques and systems described in Nelson are simply limited to correlating monetary values with predetermined outcomes. Therefore, Nelson clearly does not teach or suggest “determining if the game outcome matches at least one winning outcome...in accordance with evaluation of the selected elements against the one or more rules” as claimed.

b) The Cited Prior Art Fails to Teach or Suggest the Claimed Element of Text Defining One or More Rules to Determine a Set of One or More Winning Outcomes

Neither Benbrahim nor Nelson teach or suggest text of a game rules script being used to define “one or more rules to determine a set of one or more winning outcomes in terms of one or more of the set of displayable game elements” as claimed. In addition to the specific reasons previously set forth in Applicant’s Appeal Brief filed July 12, 2010, each of these references appear to rely on detailed, pre-determined listings of possible win outcomes, rather than defining “one or more rules to determine a set of one or more winning outcomes” and performing a “evaluation of the selected elements against the one or more rules” as claimed.

FIG. 4 provides a helpful illustration of why Nelson’s techniques are inapplicable and dissimilar to the claimed invention. In connection with a video slot machine game, element 400 illustrates creation of a payout mappings 410 in a table for literally a thousand different game outcomes. Paragraph 0064 describes:

creating a database of possible outcomes for a particular game. The outcomes represent the sample space of all possible events that might occur in a round of play in a particular game.

Creating a list of every possible outcome is directly contrary to the claimed step of “determining if the game outcome matches at least one winning outcome...against the one or more rules.” Nelson clearly requires that each possible outcome be predetermined and listed ahead of time, in order to compute the final payout for each outcome. Its payout data therefore completely ignores the ability of defining “one or more rules to determine a set of one or more winning outcomes in terms of one or more of the set of displayable game elements.”

In fact, to establish a list of every possible outcome for a simple 5-card poker hand deal from a standard 52-card deck, mappings would have to be created for $\binom{52}{5}$ possible hands – i.e., 2,598,960 possible combinations. The sheer complexity of mapping every instance of thousands, millions, or more possible outcomes is one of the problems that the presently claimed invention seeks to avoid by using one or more rules to determine a set of one or more winning outcomes.

Therefore, the Rejection’s characterization of the Nelson reference to create a game rules script is contrary to the disclosed scope of the cited prior art and dissimilar to the claimed invention. Likewise, Benbrahim’s disclosed techniques of determining winning hands without the use of a game rules script are equally dissimilar from the claimed invention. For example, as is discussed in Paragraph 0071 of the Benbrahim reference (for its “Video Poker” routine):

At block 394, the routine may determine whether the poker hand represented by the playing card images 352 currently displayed is a winner. That determination may be made by comparing data representing the currently displayed poker hand with data **representing all possible winning hands**, which may be stored in the memory of the controller 100.

(Emphasis added). Similar to Nelson’s disclosure, Benbrahim’s techniques seem to rely on brute-force representations of every possible winning combination. Such techniques directly teach away from the creation or evaluation of “one or more rules to determine the set of one or more winning outcomes” as claimed.

Likewise Perrie fails to disclose the use of “one or more rules to determine the set of one or more winning outcomes” as claimed. Perrie instead, in connection with its dice game, specifies a “payoff table” listing winning dice roll combinations and associated payoffs. See Paragraphs 0023, 0028, and 0039 of Perrie. Creation of a payoff table or another “look up table, at the end of the hand, to determine whether a winning combination exists” as disclosed in Paragraph 0039 of Perrie directly teaches away from the claimed use of rules to determine the set of one or more winning outcomes.

The discussion above has highlighted many significant differences between the recited elements of the presently amended claims and the teachings of the cited prior art. Neither Nelson or Perrie cures the defects of Benbrahim to teach or suggest “one or more rules to determine the set of one or more winning outcomes” and “determining if the game outcome matches at least one winning outcome in the set of winning outcomes in accordance with evaluation of the selected elements against the one or more rules” as claimed. Therefore, independent claims 1, 10, 17, and 26 are not obvious in view of any combination of Benbrahim, Nelson, and Perrie. Further, claims 2-8, 11-16, 18-24, 27-33, and 35-37 depend from these independent claims, and are independently allowable and allowable based on their dependency from an allowable base claim. Applicant respectfully requests reconsideration and the withdrawal of the rejection of all claims.

Allowable Subject Matter

Claims 9, 25, and 34 are allowed. Applicant thanks the Examiner for the indication of allowable subject matter. Claims 9, 25, and 34 have been amended in the present response to include the elements of the respective base claims, and to correct antecedent basis issues. Applicant respectfully requests that the allowance of claims 9, 25, 34 be maintained.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 371-2110 to facilitate prosecution of this application.

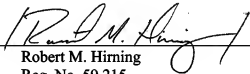
If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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